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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 BRENT LUYSTER,

7 Plaintiff,

8 v.

9 RIC BISHOP, et al.,

10 Defendants.

Case No. C18-6022-BHS-TLF

ORDER GRANTING EXTENSION  
AND RENOTING MOTION

11 Plaintiff is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to  
12 42 U.S.C. § 1983. Plaintiff's complaint was docketed and served on December 27, 2018. Dkt. 5.  
13 Defendants filed an answer on February 26, 2019, which included, at the end, a one-line request  
14 for dismissal of the action. Dkt. 12. On March 15, 2019, plaintiff filed a document entitled  
15 "opposition" to defendants' answer in which he objected to dismissal of the action. Dkt. 16. On  
16 March 18, 2019, defendants filed a motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) which  
17 was noted for April 12, 2019. Dkt. 17. On April 25, 2019, plaintiff filed a response in opposition  
18 to defendants' motion to dismiss. Dkt. 18.

19 In a letter to the Court included with his response, plaintiff explains that he was confused  
20 by defendants' motion since defendants had already requested dismissal in their answer and he  
21 had filed opposition. Dkt. 18. He explains he was unsure whether he should respond to the  
22 motion and so contacted an attorney to arrange for representation. *Id.* Although it appears he did  
23 not obtain representation, plaintiff indicates it was suggested he file a response to defendants'

1 motion. *Id.* The Court construes plaintiff's letter as a request for an extension of time to respond  
2 to defendants' motion to dismiss.

3 Because plaintiff is pro se, and has given a reasonable explanation for the delay, the  
4 Court grants plaintiff's request for an extension and will consider plaintiff's response to  
5 defendants' motion to dismiss. The Court will also consider plaintiff's previously filed  
6 "opposition" to defendants' answer (Dkt. 16), to the extent relevant, in determining defendants'  
7 motion to dismiss. *See e.g. Jones v. Blanas*, 393 F.3d 918, 923 (9th Cir. 2004) (Court may  
8 consider pro se litigant's contentions offered in motions and pleadings, where such contentions  
9 are based on personal knowledge and set forth facts that would be admissible in evidence, and  
10 where the litigant attested under penalty of perjury that the contents of the motions or pleadings  
11 are true and correct in determining whether to grant summary judgment).

12 To prevent any prejudice to defendants, **on or before May 13, 2019**, defendants may file  
13 a reply to plaintiff's response to their motion to dismiss and, in doing so, may also reply to any  
14 arguments included in plaintiff's "opposition" to defendants' answer (Dkt. 16). The Clerk is  
15 directed to **reote defendants' motion to dismiss (Dk. 17) to May 13, 2019**.

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17 Dated this 29th day of April, 2019.

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Theresa L. Fricke  
21 United States Magistrate Judge  
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